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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,373	10/15/2003	Gary Cunningham	HILB/771	6327

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EXAMINER

MILLER, WILLIAM L

ART UNIT PAPER NUMBER

3677

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/686,373

Applicant(s)

CUNNINGHAM ET AL.

Examiner

William L. Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-9 and 13-19 is/are rejected.
- 7) ☒ Claim(s) 5, 10-12, 20 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 03222004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the gasket (claim 5) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The abstract of the disclosure is objected to as it exceeds 150 words. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 6-8, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Clayton (US#3892417).

5. Regarding claims 1, 6, and 7, Clayton discloses a casket comprising: a shell 6 having a pair of opposed side and end walls defining an upper edge 26 of the shell; a lid 7,8; and a cover 10. The cover is molded from rubber or plastic and these materials are being viewed as “semi-rigid”.

6. Regarding claim 2, the cover 10 only conceals the shell edge.

7. Regarding claim 8, although Clayton discloses the plastic cover is molded as opposed to extruded, the applicant is reminded method limitations, such as extruding, are given little patentable weight in an article claim as the patentability of a product does not depend on its method of production. See MPEP 2113.

8. Regarding claim 15, the cover is removably secured to the shell (col. 2, lines 63-65).

9. Claims 1, 2, 6-8, 13, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Lau (US#5740592).

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10. Regarding claims 1, 6, and 13, Lau discloses a casket comprising: a shell 2 having a pair of opposed side and end walls 5,6 defining an upper edge of the shell; a lid 3; and a cover 10.

The cover is wood or plastic and is therefore being viewed "semi-rigid".

11. Regarding claim 2, the cover 10 only conceals the shell edge.

12. Regarding claims 7 and 8, although Clayton fails to specifically disclose the plastic cover as being molded or extruded, the applicant is reminded method limitations, such as molding and extruding, are given little patentable weight in an article claim as the patentability of a product does not depend on its method of production. See MPEP 2113.

13. Regarding claim 15, the cover is fixed, i.e. removably secured, to the shell (col. 2, lines 24-33).

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clayton.

16. Clayton fails to specifically disclose the casket material being metal or wood. However, the specific casket material is not a critical feature of the invention, and metal and wood are known casket materials as evidenced by Tambussi (US#5970590) (col. 1, lines 20-25).

Therefore, as evidenced by Tambussi, it would have been an obvious design choice to utilize a metal or wooden casket as the selection of a known material based upon its suitability for the

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intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

17. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clayton in view of Wiener (US#6438249).

18. Clayton fails to disclose the specific means of securing the cover (gasket) to the shell. However, Wiener discloses removably securing a gasket 374 to a structure 324 via a snap-fit connection, stud/aperture (snaps, pins, and/or screws) connection, double-sided tape, or a hook and loop fastener (col. 5, lines 1-3). Therefore, as taught by Wiener, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Clayton by securing the cover (gasket) to the shell via a snap-fit connection, stud/aperture connection, double-sided tape, or a hook and loop fastener to facilitate changing of the cover if desired.

19. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lau.

20. Lau fails to disclose the cover material being metal or cardboard. However, the specific cover material is not a critical feature of the invention, and wood, metal, plastic, and cardboard are known casket materials as evidenced by McClive (US#4930197) (col. 2, lines 18-22).

Therefore, as evidenced by McClive, it would have been an obvious design choice to utilize a metal or cardboard cover as the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

***Allowable Subject Matter***

21. Claims 5, 10-12, 20, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is 703 305 3978. The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703 306 4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William L. Miller  
Primary Examiner  
Art Unit 3677

